

**IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN
DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

UNITED STATES OF AMERICA)

)

)

v.)

Case no. 1:14-CR-306-GBL - 8

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MANUEL E. PAIZ GUEVARA)

MOTION TO SUPPRESS

COMES NOW, MANUEL E. PAIZ GUEVARA, hereinafter referred to as defendant and files this, his Motion to Suppress, and moves thereby for an order prohibiting the United States from mentioning, alluding to, or attempting to introduce into evidence during its case in chief, any evidence obtained from the person of the defendant or items or from places wherein the defendant enjoyed a reasonable expectation of privacy, directly or indirectly, in violation of the United States Constitution.

In support of the motion the defendant would allege and prove the following:

1. The defendant, on or about April 23, 2014, was subjected to a “Terry Stop”, or brief detention for which there was no reasonable suspicion that he was engaged in unlawful activity justifying the stop and detention.

2. That during the stop, made mention above, the defendant's person and clothing was subjected to a "pat down" for which there was no legal justification.
3. That during the "pat down" the officer felt, what the officer stated he immediately identified as narcotics in the defendant's pocket consisting of a large "ziplock" baggie, contained seven smaller "jewelers' baggies, containing marijuana.
4. That subsequently the defendant was arrested in Kansas City, Missouri, on charges unrelated to his detention and warrant of April 23, 2014, and was extradited to Virginia.
5. That during that extradition to Virginia certain personal property of the defendant was seized including, but not limited to a cellular telephone, described as a "CricKet, cellular telephone, gray, Model #N8000, with MEID Hex# A0000037497153."
6. That on or about August 19, 2014 a search warrant was issued by the magistrates in Fairfax County, Virginia authorizing the search and retention of information contained within the cellular telephone.
7. That the warrant permitted the search and seizure of the cellular telephone contents was obtained supported, by evidence obtained during the "Terry

Stop” and detention of April 23, 2014 and the fruits of that unlawful stop and search.

8. That the cellular telephone contents and information contained therein are “fruits of the poisonous tree” and would not have been known to exist or connected to the defendant but for the unlawful and unconstitutional actions of law enforcement on April 23, 2014.
9. That the acts of the officer on April 23, 2014 were unconstitutional and the detention and search of the defendant were unlawful and unconstitutional and that all acts and evidence obtained directly and indirectly from the officer’s actions on April 23, 2014 should be suppressed during the presentation of the government’s case in chief.

WHEREFORE, premises considered, the defendant moves that an order issue directing the government not to mention, allude to or attempt to introduce into evidence during the presentation of its case in chief any information or evidence, tangible or intangible, obtained as a consequence, directly or indirectly, of an unconstitutional stop, seizure of the person, search or seizure of items or from places in which the defendant enjoyed a reasonable expectation of privacy.

Respectfully submitted,

MANUEL E. PAIZ GUEVARA

By: _____/S/_____

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ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing Motion for Designation of Law Enforcement Agencies was duly served, August 12, 2015, upon:

Stephen M. Campbell, Esq.
Julia K Martinez, Esq.
Assistant United States Attorneys
Eastern District of Virginia
2100 Jamison Avenue
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And all other defendants in this matter by the Court's electronic filing system.

/s/ David P. Baugh
David P. Baugh